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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/792,259

03/02/2004

Andrew L. Van Brocklin

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05/20/2005

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EXAMINER

TSIDULKO, MARK

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/792,259

Applicant(s)

VAN BROCKLIN ET AL.

Examiner

Mark Tsidulko

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-18 is/are rejected.
- 7) ☒ Claim(s) 7,8 and 19-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 051205.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 10, 14-16 are objected to because of the following informalities:

Referring to Claim 10 it is unclear what Applicant intends by “*ambient light is produced partially by a light*”. What kind of light?

Referring to Claim 14 it is not shown *what* method is claimed.

Claims 15 and 16 are objected as claims depended on claim 14.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what Applicant intends by “*compensating light to adjust the light...regardless of the hue of the ambient light within space*” what means *regardless of the hue detected by the ambient light sensor*. In this case, using the ambient light sensor does not make any sense, but how the modulating device can “find out”, without signal from the light sensor, that the hue within the space needs to be compensated?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-6, 9-11, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Mori et al. (US 4,953,011).

Referring to Claim 1, as best understood, Mori et al. disclose a color enhancing circuit including a sensor that senses the hue of the ambient light and a hue modulating device for adjusting the hue (col.2, lines 1-17; claims 1 and 2).

Referring to Claims 2, 6, 11 Mori et al. disclose a color enhancing circuit including a sensor that senses the hue of the ambient light and a hue modulating device for adjusting the hue in response to the hue of the ambient light (col.2, lines 1-17; claims 1 and 2).

Referring to Claims 3-5 Mori et al. disclose (Fig.28) white light source [161] and a condenser lens [162].

Referring to Claims 9, 10 the hue sensor inherently senses the hue of light regardless of the type of the light source.

Referring to Claim 17 Mori et al. disclose a color enhancing circuit including a sensor that senses the hue of the ambient light and a hue modulating device for adjusting the hue (col.2, lines 1-17; claims 1 and 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 13, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mori et al. (US 4,953,011) in view of Tayebati (US 6,819,466).

Mori et al. discloses the instant claimed invention except for Fabry-Perot device.

Tayebati discloses a Fabry-Perot light modulator including a first reflector and a second reflector and adjustable cavity between the reflectors filled with the flexible material (since cavity is adjustable) (col.2, lines 23-42; claim 1). Change the cavity length allow to obtain an optimal wavelength corresponding to the electro-absorbance material in the modulator (Abstract).

Referring to Claim 18 since Tayebati discloses a light modulator having two spaced reflectors, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the Fabry-Perot light modulator, as taught by Tayebati, for the device of Mori et al., in order to obtain an optimal wavelength of the light.

Claims 14-16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Mori et al.

These references discloses structure of the device but does not disclose a method.

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Referring to Claims 14, 16 Mori et al. disclose a color enhancing circuit including a sensor that senses the hue of the ambient light and a hue modulating device for adjusting the hue (col.2, lines 1-17; claims 1 and 2).

Referring to Claim 15 it is understood that the light sources provided any colored light known in the art may be used for the device that implements its function regardless of the color of the light.

Allowable Subject Matter

Claims 7, 8, 19, 20, 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Referring to Claims 7, 19 the prior art of record fails to show that the hue modulating device is a front-lit device.

Referring to Claims 8, 20 the prior art of record fails to show that the hue modulating device is a back-lit device.

Referring to Claim 21 the prior art of record fails to show a means for controlling and sensing a compensating hue has a feedback loop to compensate for the effectieness of the means for modulating the hue.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.
May 12, 2005



**JOHN ANTHONY WARD
PRIMARY EXAMINER**